

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EDWARD CHARLES TUCKER,
PLAINTIFF PRO SE,

VS.

JEFFREY M. HOLT, CORRECTIONS OFFICER AT JERRY H.
HODGE UNIT,

MASON K. SPANGLER, SARGENT AT JERRY H. HODGE UNIT

LORI A. GLOVER, INVESTIGATOR II AT JERRY H. HODGE
UNIT

INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES.

DEFENDANT[S]

6:21CV249 JCB/JDL

CIVIL ACTION NO. ____
PRO SE COMPLAINT

JURISDICTIONS & VENUE

1] THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C. SEC. 1983 TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW, OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES. THIS COURT HAS SUBJECT MATTER JURISDICTION UNDER 28 U.S.C. SEC 1331 AND 1343[a][3] PLAINTIFF TUCKER SEEKS DECLARATORY RELIEF PURSUANT TO 28 U. S. C. SEC. 2201 AND 2202. PLAINTIFF TUCKER'S CLAIMS FOR INJUNCTIVE RELIEF ARE AUTHORIZED BY 28 U.S.C. SEC. 2283 & 2284 AND RULE 65 OF THE FEDERAL RULES OF CIVIL PROCEDURE.

2] THE EASTERN DISTRICT OF TEXAS IS AN APPROPRIATE VENUE UNDER 28 U.S.C. SEC 1391 [b] [2] BECAUSE IT IS WHERE THE EVENTS GIVING RISE TO THIS CLAIM OCCURRED.

PLAINTIFF IN THE SUIT

3] PLAINTIFF [EDWARD CHARLES TUCKER], IS AND WAS AT ALL TIMES MENTIONED HEREIN A PRISONER OF THE STATE OF TEXAS IN THE CUSTODY OF THE TEXAS DEPARTMENT OF CORRECTIONS. HE IS CURRENTLY CONFINED IN THE JERRY H. HODGE UNIT, IN RUSK, TEXAS.

DEFENDANTS IN THE SUIT

4]. DEFENDANT [JEFFREY M. HOLT], IS A CORRECTIONAL OFFICER OF THE TEXAS DEPARTMENT OF CORRECTIONS WHO, AT ALL TIMES MENTIONED IN THIS COMPLAINT, HELD THE RANK OF A PRISON GUARD AND WAS ASSIGNED TO THE JERRY H. HODGE UNIT.

5]. DEFENDANT [MASON K. SPANGLER], IS A CORRECTIONAL OFFICER OF THE TEXAS DEPARTMENT OF CORRECTIONS WHO, AT ALL TIMES MENTIONED IN THIS COMPLAINT, HELD THE RANK OF A SARGENT AND WAS ASSIGNED TO THE JERRY H. HODGE UNIT.

6]. DEFENDANT [LORI A. GLOVER], IS A GRIEVANCE QUADNATER FOR THE TEXAS DEPARTMENT OF CORRECTIONS WHO, AT ALL TIMES MENTIONED IN THIS COMPLAINT, HEALD THE POSITON OF AN INVESTGATOR AND WAS ASSIGNED TO THE JERRY H. HODGE UNIT.

7]. EACH DEFENDANT IS SUED INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITY. AT ALL TIMES MENTIONED IN THIS COMPLAINT EACH DEFENDANT ACTED UNDER THE COLOR OF STATE LAW.

* * SUPPORTING FACT(S) * *

8]. PLAINTIFF TUCKER ASSERTS THAT AT ALL TIMES RELEVANT TO THIS COMPLAINT HE AND [CHEVIS HODGE] WERE CELL MATES ON B-WING. THEY WERE ASSIGNED TO CELL B-120.

9]. ON NOVEMBER [26], 2020, DEFENDANT JEFFREY M. HOLT WAS ASSIGNED TO J-1 / B-WING.

10]. AT THAT TIME OFFICER HOLT AND PLAINTIFF EDWARD C. TUCKER DID THEN AND THEIR GET INTO A ALTERCATION OVER THE [DALLAS COWBOYS & WASHINGTON FOOTBALL TEAM] FOOTBALL GAME.

11]. UPON INFORMATION AND BELIEF, IT WAS AROUND OR ABOUT 8:30 PM OR 8:45 PM THAT OFFICER HOLT FOLLOWED PLAINTIFF TUCKER TO HIS CELL

12]. AT THAT TIME OFFICER HOLT DID THEN AND THEIR NUDGE TUCKER IN THE BACK AND CALL TUCKER A NIGER WHILE TUCKER WAS WALKING INTO HIS CELL.

13]. MR. TUCKER ASSERTS THAT AS HE TURNED TO CONFRONT OFFICER HOLT, OFFICER HOLT DID THEN AND THEIR SPIT A TOBACCO SUBSTANCE INTO TUCKER'S FACE BEFORE CLOSING THE CELL DOOR.

14]. THE TOBACCO SUBSTANCE GOT INTO TUCKER'S EYE[S] CAUSING BURNING, IRRITATION AND SWELLING TO THE EYE[S] OF MR. TUCKER.

15]. MR. TUCKER ASSERTS THAT DO TO OFFICER HOLT CLOSING HIM IN SIDE THE CELL HE WAS UNABLE TO REPORT THE ISSUE TO OFFICER HOLT'S SUPERVISOR INTO AROUND OR ABOUT 11:30-12:00 AM.

16]. AT THAT TIME SGT. MASON K. SPANGLER WAS CALLED OUT TO INVESTIGATE THE FACTS.

17]. AT THAT TIME MR. TUCKER INFORMED SGT. MASON K. SPANGLER OF THE FACTS AND PLEADED FOR ASSISTANCE.

18]. HOWEVER, MR. TUCKER WAS NOT AFFORDED ANY MEDICAL TREATMENT FOR THE BURNING, IRRITATION AND SWELLING CAUSED BY THE ILLEGAL TOBACCO SUBSTANCE THAT OFFICER HOLT SPIT IN HIS FACE.

19]. IN ADDITION, MR. TUCKER HAD ASKED FOR [DNA] TESTING TO BE DONE ON HIS CLOTHING TO ESTABLISH THE FACTS, BUT IT WAS ALSO DENIED ALTHOUGH TUCKER WAS COVERED IN VISIBLE TRACES OF THE ILLEGAL TOBACCO SUBSTANCE THAT OFFICER HOLT SPIT IN HIS FACE.

20]. ON NOVEMBER 27, 2020, PLAINTIFF TUCKER FILED WHAT WAS LABELED AS AN EMERGENCY STEP [1] ONE GRIEVANCE AGAINST DEFENDANT HOLT AND DEFENDANT SPANGLER FOR THE MISUSE OF FORCE, DENIAL OF MEDICAL TREATMENT AND FAILURE TO COLLECT EVIDENCE.

21]. THE GRIEVANCE WAS INVESTIGATED BY DEFENDANT GLOVER ON OR ABOUT NOVEMBER 30, 2020.

22]. AT THAT TIME PLAINTIFF TUCKER DID THEN AND THEIR INFORM DEFENDANT GLOVER THAT THE EVIDENCE WAS STEEL IN HIS POSSESSION AND THAT HE WOULD LIKE FOR IT TO BE USED TO DEVELOP THE FACTS AGAINST DEFENDANT HOLT.

23]. DEFENDANT GLOVER INFORMED PLAINTIFF TUCKER THAT THE EVIDENCE WOULD NOT BE CONSIDERED AND THAT THE GRIVENCE WOULD BE DENIED.

24]. ON JANUARY 4, 2021, PLAINTIFF TUCKER'S STEP [1] ONE GRIEVANCE WAS DENIED FOR A LACK OF EVIDENCE BY WARDEN JOHN McDANIEL'S.

25]. ON JANUARY 7, 2021, PLAINTIFF TUCKER PRESENTED HIS STEP [2] GRIEVANCE AGAINST THE DEFENDANTS ALLEGING A DENIAL OF DUE PROCESS

26]. ON FEBRUARY 3, 2021, PLAINTIFF TUCKER WAS SENT A RESPONSE TO HIS STEP [2] TWO GRIEVANCE SAYING THAT IT LACKED EVIDENCE.[SEE EXHIBITS-A/B].

EXHAUSTION OF LEGAL REMEDIES

27]. PLAINTIFF TUCKER USED THE PRISON GRIEVANCE PROCEDURE AVAILABLE AT JERRY H. HODGE UNIT TO TRY AND SOLVE THE PROBLEM, ON NOV. 27, 2020, PLAINTIFF TUCKER PRESENTED THE FACTS RELATING TO THIS COMPLAINT. ON JAN. 05, 2021, PLAINTIFF TUCKER WAS SENT A RESPONSE SAYING THAT THE GRIEVANCE HAD BEEN DENIED DUE TO INSUFFICIENT EVIDENCE TO OPEN AN OIG INVESTIGATION.

ON JANUARY 7, 2021, PLAINTIFF TUCKER APPEALED THE DENIAL OF THE STEP [1] ONE GRIEVANCE FROM THE WARDEN. PLAINTIFF TUCKER RECEIVED A RESPONSE ON FEB. 24, 2021, SAYING THAT THE STEP [2] TWO GRIEVANCE HAD BEEN DENIED FOR LACK OF EVIDENCE. PLAINTIFF TUCKER'S GRIEVANCE AND APPEAL ARE ATTACHED AS [EXHIBITS-A/B].

LEGAL CLAIM(S)

28]. PLAINTIFF REALLEGE AND INCORPORATES BY REFERENCE PARAGRAPHS [1 - 29]

30]. DEFENDANT [JEFFERY M. HOLT], DID SUBJECT MR. TUCKER TO CRUEL AND UNUSUAL PUNISHMENT BY PUSHING HIM IN THE BACK, CALLING HIM A NIGGER, AND ULTIMATELY SPITTING A TOBACCO SUBSTANCE INTO HIS FACE AND EYES WHEN MR. TUCKER WAS NOT VIOLATING ANY PRISON RULES AND WAS NOT ACTING DISRUPTIVELY, DEFENDANT HOLT'S ACTION[S] VIOLATED PLAINTIFF TUCKER'S RIGHTS UNDER THE EIGHT AMENDMENT TO THE UNITED STATES CONSTITUTION, AND CAUSED PLAINTIFF TUCKER PAIN, SUFFERING, PHYSICAL INJURY, AND EMOTIONAL DISTRESS.

31]. DEFENDANT [MASON K. SPANGLER], FAILURE TO ASSIST PLAINTIFF TUCKER IN RECEIVING MEDICAL ATTENTION UPON LEARNING THAT OFFICER HOLT HAD SPIT A TOBACCO SUBSTANCE IN HIS EYES DID RESULT IN DELIBERATE INDIFFERENCE IN VIOLATION OF THE EIGHT AMENDMENT TO THE UNITED STATES CONSTITUTION AND CAUSED PLAINTIFF TUCKER PAIN, SUFFERING, PHYSICAL INJURY, AND EMOTIONAL DISTRESS.

32]. DEFENDANT [MASON K. SPANGLER'S], DENIED PLAINTIFF TUCKER DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION BY FAILING TO COLLECT THE [T-SHIRT] EVIDENCE THAT WOULD HAVE ESTABLISHED THE ALLEGATIONS AGAINST DEFENDANT HOLT.

33]. DEFENDANT [LORI A. GLOVER], DENIED PLAINTIFF TUCKER DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION BY FAILING TO COLLECT THE [T-SHIRT] EVIDENCE THAT WOULD HAVE ESTABLISHED THE ALLEGATIONS AGAINST DEFENDANT HOLT.

34]. PLAINTIFF TUCKER HAS NO PLAIN, ADQEUATE OR COMPLETE REMEDY AT LAW TO REDRESS THE WRONGS DESCRIBED HEREIN. PLAINTIFF HAS AND WILL AND CONTINUE TO BE IRREPARABLY INJURED BY THE CONDUCT OF THE DEFENDANTS UNLESS THIS COURT GRANTS AND INJUNCTIVE RELIEF WHICH PLAINTIFF SEEKS.

PRAYER FOR RELIEF

WHEREFOR PLAINTIFF RESPECTFULLY PRAY THAT THIS COURT ENTER JUDGMENT :

35]. GRANTING PLAINTIFF TUCKER A DECLARATION THAT THE ACTS AND OMISSIONS DESCRIBED HEREIN VIOLATE HIS RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES, AND

36]. A PRELIMINARY AND PERMANT INJUNCTION ORDERING DEFENDANTS TO INSURE MEDICAL ATTENTION FOR HIS EYES, AND

37]. GRANTING PLAINTIFF TUCKER COMPENSATORY DAMAGES IN THE AMOUNT OF 50,000 AGAINST EACH DEFENDANT, JOINTLY AND SEVERALLY.

38]. PLAINTIFF TUCKER SEEKS PUNITIVE DAMEGES IN THE AMOUNT OF 50,000. PLAINTIFF TUCKER SEEKS THESE DAMAGES AGAINST EACH DEFENDANT, JOINTLY AND SEVERLLY.

39]. PLAINTIFF TUCKER ALSO SEEKS A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY,

40]. PLAINTIFF ALSO SEEK RECOVERY OF THE COSTS IN THIS SUIT, AND

41]. ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER AND EQUITABLE.

DATED: APRIL 01, 2021

RESPECTFULLY SUBMITTED,

EDWARD C. TUCKER

01495137

JERRY H. HODGE UNIT

379 FM 2972 WEST

RUSK TEXAS 75785

VARIFICATION

I HAVE READ THE FOREGOING COMPLAINT AND HEREBY VERIFY THAT THE MATTERS ALLEGED THEREIN ARE TRUE, EXCEPT AS TO MATTERS ALLEGED ON INFORMATION AND BELIEF, AND, AS TO THOSE, I BELIEVE THEM TO BE TRUE. I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOLLOWING IS TRUE AND CORRECT.

EXECUTED AT JERRY H. HODEG UNIT ON APRIL 01, 2021

EDWARD C. TUCKER # 01495137

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